

AO 91 (Rev. 11/82)

CRIMINAL COMPLAINT

UNITED STATES DISTRICT COURT		CENTRAL DISTRICT OF CALIFORNIA	
UNITED STATES OF AMERICA v. ANDY PALOMINO GUZMAN, JR.		DOCKET NO.	
		MAGISTRATE'S CASE NO. SA 17-137M	
Complaint for violation of Title 18, United States Code, Section 922(g)(1)			
NAME OF MAGISTRATE JUDGE HONORABLE JAY C. GANDHI		UNITED STATES MAGISTRATE JUDGE	LOCATION Santa Ana, California
DATE OF OFFENSE March 4, 2017	PLACE OF OFFENSE Orange County	ADDRESS OF ACCUSED (IF KNOWN)	FILED-SOUTHERN DIVISION CLERK, U.S. DISTRICT COURT APR 28 2017
COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION: 18 U.S.C. § 922(g)(1)			
On or about March 4, 2017, in Orange County, within the Central District of California, defendant ANDY PALOMINO GUZMAN, JR. ("GUZMAN"), knowingly possessed a firearm, namely, a .380 caliber Cobra handgun, bearing serial number FS105445, in and affecting interstate and foreign commerce.			
Such possession occurred after defendant GUZMAN had been convicted of at least one of the following felony crimes, each punishable by a term of imprisonment exceeding one year:			
1. Assault with a Deadly Weapon, in violation of California Penal Code Section 245(a)(1), in the Superior Court of the State of California, County of Orange, case number 95CF1218, on or about August 24, 1995; and			
2. Carrying a Concealed Firearm in a Vehicle with a Prior Felony, in violation of California Penal Code Section 12025(A)(1), in the Superior Court of the State of California, County of Orange, case number 02CF0983, on or about December 10, 2002.			
BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED: (See attached affidavit which is incorporated as part of this Complaint)			
MATERIAL WITNESSES IN RELATION TO THIS CHARGE: N/A			
Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.		SIGNATURE OF COMPLAINANT <i>151</i>	
		OFFICIAL TITLE Special Agent Ryan Averill Department of Alcohol, Tobacco, Firearms, and Explosives	
Sworn to before me and subscribed in my presence,			
SIGNATURE OF MAGISTRATE JUDGE ⁽¹⁾ Jay C. Gandhi			DATE April 28, 2017

⁽¹⁾ See Federal Rules of Criminal Procedure 3 and 54

AFFIDAVIT

I, Ryan Averill, being duly sworn, declare and state as follows:

I. INTRODUCTION

1. I am a Special Agent ("SA") with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and have been so employed since May 2015. I completed the Criminal Investigations Training Program at the Federal Law Enforcement Training Center in Brunswick, Georgia. I also completed the ATF Special Agent Basic Training National Training Academy in Brunswick, Georgia. During those courses of study, I received training in the investigation of federal firearm and explosive violations. Before becoming a Special Agent with the ATF, I was employed as a Patrol Officer with the City and County of Honolulu Police Department ("HPD") for approximately four years.

2. I have conducted investigations involving the possession and use of firearms and narcotics by prohibited persons. While employed as an ATF agent and a HPD Patrol Officer I have been involved in numerous investigations dealing with the possession and use of firearms. I have also participated in the undercover purchase of firearms and narcotics.

II. PURPOSE OF AFFIDAVIT

3. This affidavit is made in support of a criminal complaint and arrest warrant charging ANDY PALOMINO GUZMAN JR. ("GUZMAN"), with possession of a firearm by a prohibited person (felon), in violation of 18 U.S.C. § 922(g)(1).

4. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

III. STATEMENT OF PROBABLE CAUSE

5. Based on my review of a Santa Ana Police Department (SAPD) report and speaking to SAPD Detectives, I learned the following:

a. On March 4th 2017, SAPD Detectives and Officers were working with the Gang Suppression Unit in the area of 2200 Franzen Avenue, Santa Ana, California. SAPD Detective (Det.) N. Lopez and SAPD Det. C. Shynn were traveling east on Franzen Avenue from North Tustin Avenue in a marked SAPD Patrol vehicle. Both SAPD detectives stated that they know this area to be associated with the Orange Varrio Cypress criminal street gang.

b. While patrolling that area, the SAPD detectives observed a group of 3-4 people standing on the north sidewalk of Franzen Avenue and further observed a male wearing a black hoodie up over his head and gloves walk up to the group. This male was later identified as GUZMAN. Det. C. Shynn used the spotlight mounted on his marked SAPD vehicle to illuminate

GUZMAN who responded by looking at the marked SAPD vehicle. GUZMAN then immediately began running east on Franzen Avenue towards Ponderosa Street while holding his front waistband area with his left arm. The SAPD detectives pursued GUZMAN in their vehicle and were approximately 10 feet behind him as GUZMAN turned north running on Ponderosa Street. During this time, GUZMAN was still illuminated by the vehicle-mounted spotlight. Det. C. Shynn then observed GUZMAN throw a chrome-colored handgun onto the front lawn of 2410 Ponderosa Street with his left hand. GUZMAN continued running north on Ponderosa Street and attempted to conceal himself in a bush just north of where he discarded the handgun. Det. C. Shynn then exited his vehicle and ran toward GUZMAN. GUZMAN attempted to continue to flee but fell onto the ground as Det. C. Shynn approached. Det. C. Shynn and Det. N. Lopez then detained GUZMAN without further incident.

c. Det. N. Lopez then directed other SAPD personnel, Det. G. Gutierrez and Ofc. D. Buchanan to search the area of 2410 Ponderosa Street for the handgun GUZMAN discarded. During this search, Det. G. Gutierrez observed a chrome-colored .380 caliber handgun on the front lawn of 2410 Ponderosa Street. Det. C. Shynn then confirmed that the handgun was in the same location where he had seen GUZMAN discard a chrome-colored handgun moments earlier.

d. The handgun, a model FS380, .380 caliber, manufactured by Cobra, with serial number FS105445, was then taken into SAPD custody as evidence.

6. On April 28th, 2017, I reviewed the results of a search of GUZMAN's criminal history in the NCIC and Orange County Superior Court databases. The results indicated that GUZMAN possessed the firearm after having been convicted of at least one of the following felony crimes, each punishable by a term of imprisonment exceeding one year:

1. Assault with a Deadly Weapon, in violation of California Penal Code Section 245(a)(1), in the Superior Court of the State of California, County of Orange, case number 95CF1218, on or about August 24, 1995; and

2. Carrying a Concealed Firearm in a Vehicle with a Prior Felony, in violation of California Penal Code Section 12025(A)(1), in the Superior Court of the State of California, County of Orange, case number 02CF0983, on or about December 10, 2002.

7. On April 28th, 2017 ATF Resident Agent in Charge Frank Spizuoco Jr., a firearms interstate nexus expert, told me that Cobra Enterprises Pistols are manufactured outside of the state of California, and therefore could make the determination that the firearm seized in this case did travel in interstate or foreign commerce.

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IV. CONCLUSION

8. For all the reasons described above, there is probable cause to believe that ANDY PALOMINO GUZMAN JR. committed the offense of felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1).

151

Ryan Averill, Special Agent
ATF

Subscribed to and sworn before me
this 28th day of April 2017

Jay C. Gandhi

HONORABLE JAY C. GANDHI
UNITED STATES MAGISTRATE JUDGE